

RECEIVED & FILED

'11 JUL 22 AM 10:31

1 FRANCIS B. MAJORIE (Pro Hac Vice)
2 **THE MAJORIE FIRM, LTD.**
3 3514 Cedar Springs Road
4 Dallas, Texas 75219
5 Phone: 214-522-7400
6 Fax: 214-522-7911
7 fbmajorie@themajoriefirm.com

U.S. BANKRUPTCY COURT
NORTH DAKOTA DISTRICT

5 MELANIE A. HILL
6 Nevada Bar. No. 8796
7 **LAW OFFICE OF MELANIE HILL**
8 9345 W. Sunset Road, Suite 100
9 Las Vegas, Nevada 89148
10 Phone: 702-362-8500
11 Fax: 702-362-8505
12 Melanie@MelanieHillLaw.com

13 **Counsel for Silar Advisors, LP**
14 **and Silar Special Opportunities Fund, LP**

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 IN RE:

Case No. 2:07-cv-892-RCJ-GWF-BASE

16 USA COMMERCIAL MORTGAGE
17 COMPANY,

**JOINT *EMERGENCY* MOTION TO
VACATE FINAL JUDGMENT AND
ORDER AWARDING DECLARATORY
RELIEF, DAMAGES, ATTORNEYS'
FEES, AND PREJUDGMENT
INTEREST, AND DENYING
DEFENDANTS' POST-TRIAL
MOTIONS FOR JUDGMENT AS A
MATTER OF LAW AND A NEW
TRIAL**

18 Debtor.

19 3685 SAN FERNANDO LENDERS, LLC, *et al.*

20 Plaintiffs,

21 v.

22 COMPASS USA SPE LLC, *et al.*

and

23 Defendants.

ORDER

24
25
26
27 **THIS JOINT *EMERGENCY* MOTION IS BEING FILED BECAUSE THE**
28 **COURT HAD GRANTED DEFENDANT'S ORAL REQUEST AT THE JUNE**
9, 2011 HEARING FOR 15 DAYS TO REVIEW AND OBJECT TO THE

1 **PLAINTIFFS' PROPOSED FINAL JUDGMENT AND TO REQUEST A**
 2 **HEARING ON THEIR OBJECTIONS. ADDITIONALLY, THE PLAINTIFFS**
 3 **HAD AGREED TO PROVIDE DEFENDANTS AN ADDITIONAL 15 DAYS**
 4 **TO OBJECT GIVING DEFENDANTS UNTIL AUGUST 8, 2011, AND THE**
 5 **DEFENDANTS WERE IN THE PROCESS OF PREPARING SAID**
 6 **STIPULATION WHEN THE COURT ENTERED THE FINAL JUDGMENT.**

7 Certain Direct Lenders, by and through their undersigned counsel, Michael
 8 Collins, Bickel & Brewer and Janet L. Chubb, Armstrong Teasdale; Silar
 9 Advisors LP and Silar Special Opportunities Funds LP (collectively, "Silar"), by
 10 and through their undersigned counsel, Francis B. Majorie, The Majorie Firm,
 11 LP, and Melanie A. Hill, Law Office of Melanie Hill; Compass Partners, LLC,
 12 Compass USA SPE, Ltd., Boris Piskun and David Blatt (collectively "Compass")
 13 by and through their undersigned counsel Daniel T. Hayward, Laxalt & Noriura,
 14 Ltd.; and the Chapter 7 Trustee William A. Leonard, Jr., by and through counsel,
 15 Jonathan S. Dabbieri, Sullivan, Hill, Lewin, Rez & Enge . jointly move as
 16 follows:

17 1. At the June 9, 2011 hearing on the post-trial notions, the Court
 18 ordered plaintiffs to submit a proposed judgment and findings of fact and
 19 conclusions of law within thirty (30) days of the hearing date. The Court granted
 20 Silar's oral request on behalf of all Defendants for fifteen (15) days to review the
 21 proposed judgment, findings of fact, and conclusions of law to be submitted by
 22 Plaintiffs and file Objections. If the Defendants filed objections to the Proposed
 23 Judgment within fifteen (15) days, the Court advised that a hearing would be set
 24 on the matter. See Transcript of Hearing at p. 134, l. 13 – p. 135, l. 15 which
 25 stated as follows:

26 THE COURT: No, I think the bankruptcy rules, although it doesn't
 27 govern me in 892, suggest that they are supposed to pass by you
 28 proposed order or proposed findings and conclusions, and basically you
 have five days under the bankruptcy rules to object, otherwise I will

1 sign them, and if you do object, I'll give you a hearing.

2 MR. MAJORIE: Okay. And I would just ask in light of the complexity
3 and probability the length of their proposal, could we at least have 15
4 days from their submission? Because they may submit --

5 THE COURT: Before I sign them?

6 MR. MAJORIE: And I'm not casting anything other than maybe --

7 THE COURT: Sounds reasonable.

8 MR. MAJORIE: Thank you.

9 2. On July 8, 2011, Plaintiffs submitted their Final Judgment And Order
10 Awarding Declaratory Relief, Damages, Attorneys' Fees, and Prejudgment
11 Interest And Denying Defendants' Post-Trial Motions and Judgment As a Matter
12 of Law [Doc. 2170] ("Proposed Judgment"). The Proposed Judgment was not provided
13 to the Defendants prior to its filing with the Court.

14 3. On July 15, 2011, the Court signed and filed the Proposed Judgment
15 [Doc. 2171] prior to the expiration of the fifteen (15) days granted to Defendants
16 to file objections and request a hearing on their objections.

17 4. Due to the length of the Proposed Judgment, ongoing discussions
18 among counsel, and other reasons, the parties reached an agreement yesterday,
19 July 14, 2011, that defendants shall have until August 8, 2011 to file a response
20 to the Court regarding the Proposed Judgment. The parties were in the process of
21 finalizing a Stipulation regarding the further extension when the Court filed the
22 Proposed Judgment today, July 15, 2011.

23 Accordingly, it is hereby jointly requested the court vacate its entry of the
24 Proposed Judgment so the Defendants will have the authorized 15 days (plus the
25 additional 15 days agreed upon by the parties) in which to file any appropriate
26 objections and request that the Court set a hearing on the matter.
27
28

1 Any objections to the Proposed Judgment would be due on or before
2 August 8, 2011.

3 DATED this 15th day of July, 2011.

4
5 BICKEL & BREWER

THE MAJORIE FIRM, LP

6
7 By: /s/ Michael Collins
Michael Collins, Pro Hac Vice

By: /s/ Francis B. Majorie
Francis B. Majorie, Pro Hac Vice

8
9 LAXALT & NOMURA, LTD.

LAW OFFICE OF MELANIE HILL

10
11 By: /s/ Daniel T. Hayward
Daniel T. Hayward

By: /s/ Melanie A. Hill
Melanie A. Hill

12
13 SULLIVAN, HILL, LEWIN, REZ
14 & ENGEL, APC

ARMSTRONG TEASDALE

15
16 By: /s/ Jonathan S. Dabbieri
Jonathan S. Dabbieri

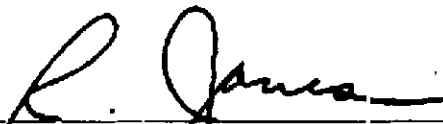
By: /s/ Janet Chubb
Janet L. Chubb

17
18 ORDER

19
20 IT IS HEREBY ORDERED that the Proposed Judgment [Doc. 2171]
21 inadvertently entered on July 15, 2011 be VACATED.

22
23 IT IS FURTHER ORDERED that any objections to the Proposed Judgment
24 shall be due on or before August 8, 2011.

25 DATED this 21st day of July, 2011.

26
27 
28 ROBERT C. JONES
CHIEF UNITED STATES DISTRICT JUDGE